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Chair

Mr. Merv Tweed

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• (1535)

[English]

The Chair (Mr. Merv Tweed (Brandon—Souris, CPC)): Thank you and good afternoon, everyone. Welcome to the Standing Committee on Transport, Infrastructure and Communities meeting number three.

The subcommittee met recently and proposed a report to the committee. That is in front of you. I would ask that we move that so that we can proceed with the minister today, if that's possible. I believe we have a mover.

Hon. Joseph Volpe (Eglinton—Lawrence, Lib.): I so move.

The Chair: Mr. Volpe so moves. So the first report is here, and at the end of the meeting I will review the schedule of the people who will appear before this committee.

Joining us today is the minister again. In a matter of a couple of weeks we've had the pleasure of the minister's attendance, and we welcome you. Also appearing with the Honourable John Baird is Marc Grégoire, who is assistant deputy minister for safety and security; Peter Coyles, special adviser to director of operations; and Marie-France Dagenais, director general, transportation of dangerous goods.

Thank you very much. I'm sure the minister has some opening comments to make, and I would ask him to proceed.

Hon. John Baird (Minister of Transport, Infrastructure and Communities): Thank you very much, Mr. Chair.

I'm very pleased to be here to talk about Bill C-9, an act to amend the Transportation of Dangerous Goods Act, which was last amended in 1992.

As my parliamentary secretary highlighted in the House a few days ago, this bill seeks to improve the safety and security provisions required when transporting dangerous goods. After consulting widely with stakeholders and our counterparts at the provincial and territorial levels, our government has presented amendments designed to strengthen Canada's dangerous goods program. The ultimate goal and our primary concern is to keep Canadians safe while also keeping our economy moving.

I know that some of my colleagues still remember a chilling event near Mississauga in 1979. A train carrying a shipment of chlorine derailed and forced more than a quarter of a million people to be evacuated from their homes and businesses and surrounding areas. Thank goodness no one was injured, but the risk was extreme.

The following year, in 1980, Canada introduced its first Transportation of Dangerous Goods Act. This act gives the federal government the ability and the authority to draft policy, guide emergency response, and develop regulations in order to manage risk and promote public safety during the transportation of dangerous goods.

The act was last updated in 1992, but as members of this committee know, much has changed since that time. In 1992, when the current act came into force, no one could have envisaged the terrorist threat—the new security reality the world faces today. And Canada is not immune. The proposed changes we have all been discussing in the House, and now here in committee, enable a strong security program that is focused both on prevention and response in the event of a security incident or safety accident.

The bill provides the authority to establish performance regulations for security plans and training. These are based on international recommendations, and they are aligned with existing U.S. regulations. It also enables regulations to be made to establish security requirements for tracking dangerous goods, as well as regulations requiring companies to report lost or stolen dangerous goods.

The bill would allow the Minister of Transport or the deputy to have the authority to make security measures and interim orders. Interim orders and security measures are emergency or immediate regulations that can be used to respond to a pressing identified threat in situations where the timelines of the normal regulatory process could jeopardize public safety. Such orders can only be made if the government has the authority in existing legislation to make such a regulation. Let me be clear that an interim order cannot be used to make regulations the government does not have the authority to make under this legislation.

The issue that I know was raised during the second reading of the bill is the requirement for security clearances for truck drivers crossing the border between the United States and Canada who are carrying dangerous goods. Back in August of 2005, the Safe, Accountable, Flexible, Efficient Transportation Equity Act came into force in the United States. It requires commercial motor vehicle drivers licensed in Canada or Mexico who are transporting dangerous goods into and within the United States to undergo a background check. Essentially, these checks are security clearances similar to those required for American truck drivers transporting truckload quantities of dangerous goods within the United States.

Canadian drivers are currently satisfying this provision if they have been accepted into the “free and secure trade”—FAST—programs of the Canada Border Services Agency and the United States Bureau of Customs and Border Protection. But the United States still looks to Canada to implement a long-term solution. This bill we're considering could lead to that long-term solution by providing the authority to establish a transportation security clearance program.

Canadians enjoy access to the American market through the FAST program, and this will continue. But it is essential that we have long-term solutions to guarantee access to important markets for Canadian manufacturers, producers, and shippers.

With respect to the emergency response side of the bill, this legislation will provide the government with the necessary authority to use existing and approved emergency response assistance plans in order to respond to an incident. These plans are provided by companies before they're permitted to transport any dangerous good. This is an effective and efficient way to use existing capacity, knowledge, and expertise to protect public safety in the event of a terrorist incident involving dangerous goods.

The initiatives being brought forward would harmonize security requirements for activities such as security plans and security training and enable the government to have the appropriate prevention and response security program in place for the Vancouver 2010 Olympics and the upcoming G-8 meeting here in Ontario.

As parliamentarians, we share an obligation to Canadians to make sure that we protect their public safety. These amendments will do just that by bringing forward the necessary security requirements and proper safety enhancements to protect public safety.

• (1540)

I believe these proposed safety amendments, along with the new security prevention and response program, are the right things to do for public safety. Now is the time to make these changes to enhance public safety and support our Canadian economy, and it's an opportunity for us to work together to consider this bill.

I should say at the outset that I and the department value the role that all members of this committee play. If there are suggested ways to improve this legislation to make it better, we're certainly excited and eager to learn them as you undertake your deliberations.

Thank you very much, Mr. Chairman.

The Chair: Thank you, Mr. Baird.

Mr. Volpe.

Hon. Joseph Volpe: Thank you, Mr. Chairman.

Once again, thank you, Mr. Minister, and thank you Monsieur Grégoire.

[*Translation*]

Mr. Coyles and Ms. Dagenais, my thanks to you as well for being here.

I would like to ask you some questions about security and technology. At this level of questioning, the minister may not be in a

position to answer, with all due respect. But Mr. Grégoire will certainly know something about it.

[*English*]

Mr. Minister, you focused on the plans, if we could talk about those for a moment, and about the background checks of drivers. I'm wondering whether you spent any time consulting on the technology that's currently available and/or under development for insertion into some of these vehicles that will be transporting dangerous goods. If so, with whom did you consult?

The Chair: Mr. Coyles.

Mr. Peter Coyles (Special Advisor to Director, Operations, Department of Transport): There's been a lot of work done by the department in looking at technologies, a lot of research and development. Research has been done to look at what technologies are out there, what their capacities are, how best to use them. There have been reports in the past that have been produced. I believe some of them have come to this committee, perhaps in previous forums. But there has been a lot of work done by the department.

If you look at what we're trying to do, the notion of the act is to provide the authority to have the requirement for tracking. The requirements on how you will do that will come in the regulations and in consultation with industry on those regulations.

Hon. Joseph Volpe: That's exactly where I'm headed. I was looking at vehicle immobilization technologies under HAZMAT in the United States on the carriage of hazardous material. They're already testing technologies that will disable the vehicle, slow it down, or otherwise immobilize it. That requires a certain amount of tracking and coordination at the centre.

Is that what you're referring to? Is that what you have done?

• (1545)

Mr. Peter Coyles: Well, I'll give an example of one of the projects that we've undertaken and that was signed. Canada joined with the United States in jointly looking at the tank car of the future, where you would look at all kinds of aspects, not only for security, but also for tracking, looking at how the valves may work, and how we can report back and capture all that information at an early stage so that we can respond and increase public safety even further.

Hon. Joseph Volpe: But since the minister has said that he wants to do this in time for the 2010 Olympics, we don't have that much of a field to punt the issue onto. We really have to deal with it now. That's why I'm asking whether we have talked to any of these companies, and if so, which ones and what technologies are in place?

Mr. Peter Coyles: One must also recognize that industry has done a lot of work already in relation to tracking their own goods, be they dangerous goods or not, for just-in-time inventory. A lot of them use already existing technologies to move their goods, be it GPS or RFID. The intent is to look at having the capacity to build a requirement to have industry be able to report back to the department and tell us where those dangerous goods are in a certain timeframe.

Hon. Joseph Volpe: I guess I'm getting a little concerned about some of the goods that have to be moved along. The minister called on two basic issues that he's looking at—there's a word that we took out of debates yesterday, Mr. Minister—in regard to the plans by companies that are moving hazardous goods for how to deal with them in the event, God forbid, of an accident, and secondly, background checks of the drivers themselves.

But now we're into a field where we're talking about harmonizing with what the Americans are going to do. I would imagine that the minister and the department would agree with me that the last thing we want is not to be current or consistent with some of the measures that the Americans are already putting into place, together with the technologies that are already beginning to demand of the trucking industry. So our truckers would show up at the border and their material would be removed and put on American trucks, and goodbye transport system for us.

As I said a moment ago, we don't really have a long field to punt the ball to. What stage of that consultation process are we at today?

Mr. Peter Coyles: Again, a lot of work has been done. I don't know if we can satisfactorily answer your question in the sense that when you get to that level of detail, you're doing that in the development of regulation.

Having said that, we've done a lot of background work in relation to research and development and in understanding what the capacities are out there in terms of the different technologies that exist. We therefore would be looking forward to working with industry to move as quickly as we possibly can to have something implemented through regulation.

And having said that, I—

Hon. Joseph Volpe: Would the minister also, at this stage of the game, be conducting bilateral discussions with his counterpart in the United States in terms of establishing regulations and a legislative framework that would bring both systems into harmony, from the perspective of both the personal security background check and the application of technology, accepted on both sides of the border?

Hon. John Baird: I will be meeting with my U.S. counterpart sometime in March or April. That's when I'll be down in Washington. I'll also be meeting with officials from the Department of Homeland Security on these issues.

I think harmonization, or an equivalent regime, is obviously helpful, in that it assists trade when there's a recognition of bilateral efforts.

Hon. Joseph Volpe: But with this legislation, which is enabling legislation, you're really asking Parliament to give you the authority to develop the kinds of regulations that you think you need. Presumably you will already have done some of that research. You have fairly competent officials who will probably already have

foreseen what needs to be done to harmonize Canadian regulations so that they are consistent with the expectations of our American counterparts to the south. Are those regulations available for us to examine?

Hon. John Baird: I'll respond to the first part, then I'll ask Mr. Grégoire to respond.

Particularly in Canada, when it comes to border issues, we're looking to see what different or new direction the new administration will take in the United States. Obviously the previous administration was not looking at a risk-based approach—I'll be charitable—but at more of an absolute approach.

I think Secretary Napolitano has been very clear that she's going to do a lot of listening and do a lot of learning, and hasn't basically set out a new framework for national security and what that means for the Canadian border. I think we're encouraged that she has underlined the reality that Mexico is different from the northern Canadian border. Neither the National Security Advisor nor the Secretary of Homeland Security has laid out a vision that the new administration will take. There were consultations, I can only assume, with the previous administration.

As you know, this bill was tabled in the previous Parliament by my predecessor.

I'll turn it over to Mr. Grégoire, if he wants to comment.

● (1550)

The Chair: If I may, I think we'll move to Monsieur Laframboise. We'll get back to Mr. Grégoire. We have the minister for only the first hour. We can always come back to the department officials, if that's okay.

Monsieur Laframboise.

[*Translation*]

Mr. Mario Laframboise (Argenteuil—Papineau—Mirabel, BQ): Thank you very much.

I am all in favour of passing legislation to regulate the transportation of dangerous goods. Clearly, you are selling it to us by saying that standards are in place in the United States and that we have to have the same standards in Canada so that goods can get across the border. That is fine by me, except that the bill goes further. For example, security clearance for workers. It applies to all workers and all goods, not just the ones crossing the border.

Mr. Marc Grégoire (Assistant Deputy Minister, Safety and Security, Department of Transport): We were talking with Mr. Volpe about harmonizing our standards with American ones, but Transport Canada is also looking to harmonize modes of transportation. In Canada, we are always looking to improve security in every mode. One of the weak links at the moment is security clearance for truckers. We are not yet sure of the extent to which we should extend security clearance in truck and rail transportation.

We see a first step being to replace the FAST Card, the EXPRES program in French, by a security clearance for truckers hauling dangerous goods into the United States. The same idea could apply inside Canada for some categories of dangerous goods. The regulations have not been established yet—because it would be done by regulation. However, we did not want to close the door to the possibility of doing it in Canada, as we currently do for Canadian ports and airports.

Mr. Mario Laframboise: I follow you. However, the text of section 5.2(1) seems clear to me. It says: “No prescribed person shall import...” so that looks after the borders, “...offer for transport, handle or transport dangerous goods in a quantity or concentration...” without the appropriate clearance.

I can see that you will be limiting that by regulation, but, according to the text, it applies to the transportation of all goods, inside as well as outside.

Mr. Marc Grégoire: Excuse me, I misunderstood your question to start with. Section 5 applies to everything, including companies that transport dangerous goods. I was just talking about the section on security clearances.

Mr. Mario Laframboise: Section 5, on page 5 of the French version of the bill, deals with transportation security clearances. The bill adds section 5.2 to the act.

Mr. Marc Grégoire: The object of this part is to limit the scope of security clearances. In other words, we do not want to give security clearances to everyone; we want to restrict them to those who haul dangerous goods of this kind, whether their destination is in the United States or somewhere else in Canada.

In fact, we are talking about legislative authority. It does not mean that we are going to such an extent with everyone involved, but it sets the maximum we could do. In other words, we could not ask for security clearance for someone who does not haul dangerous goods.

Mr. Mario Laframboise: That is fine by me, except that, unless any legal counsel in the room corrects me, I understand that a person will need security clearance to transport dangerous goods in Canada. That is how I understand it.

Mr. Marc Grégoire: In addition, the bill stipulates that this section will not go into effect at the same time as the rest of the bill. This section will not be enacted right away, at least not before the regulatory framework is in place.

Mr. Mario Laframboise: So you are telling me that I should focus on the date the bill is to come into effect. You want to have it in operation in 2010. If you apply it to all transportation of dangerous goods, you will never be able to meet that objective.

Mr. Marc Grégoire: That section cannot be in effect before the Olympic Games; it is impossible.

•(1555)

Mr. Mario Laframboise: That is what I wanted to hear.

Mr. Marc Grégoire: But the rest of the bill should be.

Mr. Mario Laframboise: Fine.

My second question is about the emergency response assistance plans. I am sure that you discussed this with the industry. Was a cost

analysis done? We are in a deep economic recession. Is everyone comfortable with the costs that could be associated with this?

Mr. Peter Coyles: Emergency plans do not result in increased costs for the industry. There are two aspects to the authority given in the bill. First, if we ask someone in an industry with an emergency response assistance plan to respond for the government, we have to have a way to pay him. That is included in the bill. Second, the industry asked us to provide it with protection and indemnity. For example, if they drove over the lawn here in front of Parliament, they wanted to be sure that the government, not the industry, would have to repair it. The industry therefore is reimbursed for all of the expenses needed in order to put the plan into operation, as well as getting the necessary insurance.

As for the plans, they already exist. They have been in operation since 1985. They have been validated by the previous department. The only costs are to keep them up to date, which is necessary for safety. The issue is whether we can use them if a security-related incident ever occurred. That is the objective of this bill: being able to activate the plans if a security-related incident happens in Canada.

[English]

The Chair: Thank you.

Mr. Bevington.

Mr. Dennis Bevington (Western Arctic, NDP): Thanks, Mr. Chair, and thank you, Mr. Minister, for joining us again.

This is a very important bill, but my questions will probably be in the same vein as my colleague from the Bloc. I'm concerned about the provisions under proposed section 5.2, the transport security clearances. The bill was presented so as to refer to the international movement of goods, in that we have some responsibility to take over security requirements there. I think that's a very positive step. But what this bill does is to open up grounds under proposed section 5.2 to cover any part of our transportation industry that handles dangerous goods. In many cases, with common carriers, only part of their efforts involve dangerous goods, and many of their efforts are in other areas.

So the transportation security clearances under this would apply to much of our transportation industry. And since the regulations may be put in place to match the requirements that the United States is putting forward or has in place already, we may find these regulations to be overdone for a common carrier in Canada, or for part of our transportation net within the country, and might not be appropriate.

So that's one of the bases of the concerns we have. In Canada, as well, we are governed by our civil liberties and our rights of privacy. So how do you see these powers being prescribed to an international situation in the future? Or is this going to allow ministers in future days to continue to ask for more transportation security clearances for a variety of carriers in our industry?

•(1600)

Hon. John Baird: I'll go first and then I'll ask my colleagues if they have anything to add.

I think the whole notion of how we deal with security is very different from what it was ten years ago. I do think that in Canada we have had a different balance of security versus civil liberties versus privacy. The same debates that we have in Canada, they have in the United States.

We have a new administration in the United States. Neither Secretary LaHood or Secretary Napolitano has given any clear indication of what type of appropriate balance they will strike. I think that balance will likely be fluid and change in our lifetimes, from time to time, or at least in our professional lifetimes, and that's appropriate.

I do think we always have to be vigilant that we don't just automatically sign on to anything that happens in the United States. At the same time, if you have trade issues, to a degree you're more handicapped than you might like to be.

I would choose the word "comparable", as in not just simply adopting everything that the United States does, but to have a comparable regime. In a number of pieces of transportation and security legislation, they speak to that. So they would have to be satisfied with us. That's just my overall thought.

I think it's a fair concern, and frankly I think it goes far beyond any regulation-making capacity under section 5. We're always going to have to be vigilant. We have a charter in this country, and we have case law that is very different from that in the United States. In the United States, on privacy, I think they have pretty strong case law as well.

I'll turn it over to my colleague.

Mr. Marc Grégoire: Yes, I'd like to add a few things, Minister.

First of all, the way I read it or understand proposed section 5.2, the way it's written now, is that all of this would be prescribed in the regulations and be contained within them. So this would be specified by the regulations. For me the whole thing applies there. So the regulations would specify all of the parameters, and I would expect that the process would be similar to what we've done in the marine sector for the ports, in that we would entertain a very wide and large consultation process, and we wouldn't impose these regulations in places where they were not required.

So for the ports, for instance, we started with the three main ports and then enlarged this to a few secondary ports. We wouldn't cover every person in the TDG sector. It's just not possible.

Mr. Dennis Bevington: Okay. I understand that your intentions right now are very good, but we're passing legislation that gives the minister the authority to do much more than that. Your intentions are really not what is in question here; it's the actual bill that we're dealing with. And when you talk about regulations, is the minister going to pass the regulations, or are they going through a Governor in Council in this bill?

Hon. John Baird: A Governor in Council.

Mr. Dennis Bevington: A Governor in Council, yes. If the purpose of this bill is to deal with our international relationship and to provide the security clearances, can we see some clarification in the bill that this is what it's going to be used for?

Mr. Marc Grégoire: We wouldn't want to have it limited to international. This is where the request started: the teamsters actually were the first ones to request that we put this piece in the legislation to eventually replace the FAST card. So the idea from the teamsters.... Okay, you understand this one. But we wouldn't want to limit it to that, because we may have security reasons in the future—not right away, but in the future—to request that in Canada.

Mr. Peter Coyles: Would it be okay if I added something just for clarity, Mr. Bevington? Just so you understand the process now, if you were a truck driver and you went to CBSA, you would have to make an application—

Mr. Dennis Bevington: I understand that process.

Mr. Peter Coyles: —and then it goes to the United States. They do a review. Under the bill, you're enabling that the individual can come home to Canada and have a right of recourse and a right of appeal for his security clearance. If you leave it as it is now, you will find that—

•(1605)

Mr. Dennis Bevington: But that's not the question I'm trying to get to. The bill is laid out in a fashion that the security clearances could in the future be put onto our national transportation net. Is that not correct?

Mr. Peter Coyles: Correct.

Mr. Dennis Bevington: As the bill's written.

Mr. Peter Coyles: Yes, it can.

Mr. Dennis Bevington: That was my question. I understand the provisions within the bill to deal with the issue of international travel, but of more concern to me is how this is going to impact our local and our national carriers, not today, but in the future as well.

Mr. Peter Coyles: Everything that we do is risk-based, so our intent is clear and our consultations were clear on how we were going to move forward with this particular provision. That would still be the way we would move forward. Granted, the authority is larger, and if there is a security risk that is determined that would require something larger, it would probably make sense for the Department of Public Safety to have the authorities to be able to do it.

We cannot unilaterally move to make any decision that would not be done through regulation and through wide consultation. So anybody who would have an impact because of that enlargement should there be a risk or a security concern would have an opportunity to be consulted on that prior to it becoming enforced.

The Chair: Thank you, Mr. Coyles.

Mr. Watson.

Mr. Jeff Watson (Essex, CPC): Thank you very much, Mr. Chair.

Thank you to the minister and officials for appearing here with respect to Bill C-9, Transportation of Dangerous Goods Act amendments.

I come from a region where we have the busiest international border crossing, between Windsor and Detroit. Of course we see the transportation of dangerous goods across the border. We have an international ferry for this purpose that we use. As well, our government is involved in investing heavily in a new international border crossing between the two locations, in part to increase the economic security, not only for Canada, but for the United States. So we have a very important bilateral relationship there.

The need to maintain access to key markets for those engaged in the transportation of dangerous goods across the border brings us to the discussion around this security clearance program. I know we've had a lot of questions delving into the specifics, but can you elaborate for the record—because there will be others and the public will be interested in this discussion—on the need for security clearance and how this program would work? Could you walk us through that?

Mr. Marc Grégoire: Yes, I can talk about that, given the number of years we've discussed this for the ports and for the airports. The vision we have for this is to eventually replace the FAST card for the purposes of security clearance. Today a trucker must go through a background check both in the U.S. and in Canada to obtain this FAST card. Some people have told us that they perceive this as an intrusion by the American authorities into their private life.

That said, if we go with a Canadian security clearance and see the equivalency with our American counterparts, we have to convince them to accept these security clearances at face value in the U.S. if they are made in Canada. We are discussing that at this very moment for the port workers and for the mariners on board Canadian ships. When they go to the U.S. and go on shore they would like to have their Canadian security clearance recognized at face value. We're in the midst of a change of administration now in the U.S., and we're going to have to wait for the new administrator of the transportation security administration to continue those talks.

But both the ex-president and Prime Minister Harper recognized in recent talks, through the security and prosperity partnership, the need to have comparable systems and the need for reciprocity in mutually accepting the security clearances done in both countries and also in Mexico. Hopefully, if we get a security clearance system in place, a program in place for truckers, eventually that would negate the need for them to have a FAST card and they could drive down to the U.S. without the FAST card.

• (1610)

Mr. Jeff Watson: Thank you.

Perhaps I could go a little bit further. It's very important.

I deal with a lot of trucking companies that may have drivers who have lost their FAST card for one reason or another. That puts the appeal process squarely on the United States side rather than here. Of course, it's difficult to get reconsideration of a FAST card for our domestic shippers who are doing cross-border transit. The effect of some of the changes proposed in this act is that now, with the acceptance of a security clearance, does that bring the process of who gets the cards and possible appeals for cards back to our side of the border?

It's a critical question, of course, because we're dealing with particularly tough economic times, and you can't have people off for a long period of time appealing to the U.S. government as to whether they can get a FAST card back. Does that repatriate this particular concern back to our side of the border?

Mr. Marc Grégoire: The short answer is yes, but as I said before, the prerequisite is to have the American authorities accept our system. It's very important for us in Canada to have a good reconsideration process. We have established one for the port workers, so presumably we would go with a similar system for the truckers if and when regulations are made.

Mr. Jeff Watson: Thank you very much. I was also going to be asking whether this would come through the SPPI, the security and prosperity partnership initiative, and you've answered that question for me.

What vulnerabilities to security exist within the current version of the Transportation of Dangerous Goods Act?

Mr. Marc Grégoire: Today the act is silent, basically, on security. So we are, for the first time, bringing a number of very good security features in this very important piece of legislation.

The Chair: Mr. Jean, you have one minute and 20 seconds.

Mr. Brian Jean (Fort McMurray—Athabasca, CPC): Thank you very much.

I have had an opportunity to work with the Teamsters in the past, and I know in this particular case I had an opportunity to speak with them again, and they seem very pleased with this bill. They want one minor amendment that is not really substantive; it's just an amendment in theory.

Have you had an opportunity, Mr. Grégoire, in particular to meet with the Teamsters and get their feedback on this bill? Is it necessary or not for the security of the Olympics, for instance, and other issues they continue to have?

Mr. Marc Grégoire: Well, yes, this is a very important piece of legislation for the Olympics. The RCMP actually asked us when we could come out with those important changes that they heard of last year when the bill was first tabled.

Today we do not have the ability to issue a security measure or a ministerial order for an emergency security issue, which we would have if these amendments were promulgated. For instance, if the RCMP, with the lead for all security issues for the Olympics, felt that we should prohibit during certain hours transportation of dangerous goods traffic on the Sea to Sky Highway, we could with these amendments issue such an order.

The Chair: Just for the information of the committee, the Teamsters will be appearing before the committee on Thursday.

Mr. Dhaliwal.

Mr. Sukh Dhaliwal (Newton—North Delta, Lib.): Thank you, Mr. Chair.

Thank you, Minister and your associates, for coming out to this committee, and for your excitement and eagerness to have a dialogue here with the committee members.

We have talked enough about Americans and Canadians. I am going back to the provinces, because you mentioned that you had enough discussions with the provincial counterparts and also the stakeholders. The transport of dangerous goods on the roads is also regulated by the provincial jurisdictions.

My concern is this. Will the truck drivers have to have two permits to transport dangerous goods, and will they have to go through training twice? Can you also elaborate particularly on whether the permits that are required on the federal scene will satisfy the requirements on all provincial levels? If not, then what would it require to harmonize this into that situation?

Mr. Peter Coyles: The program has been in existence for a long time and it has very strong consultation mechanisms that have already been established, both with industry and with the provinces. There are memorandums of agreement with each province that deal with how we are going to do all aspects of our business together. The act is criminal law. It applies to everyone who imports, transports, offers for transport, or handles dangerous goods, and the memorandum of agreements with provinces dictate how we're going to do the enforcement of the like.

When you deal with the development of regulation, be that for training or whatever, obviously we respect the requirements and the jurisdiction of the provinces and work together to make sure there is not any overlap or duplication. Most provinces follow and adopt our federal regulations, and they become the basis point of what become the dangerous goods regulations across this country. All of them either adopt them or reference them in their own regulations. Other provinces may have a more elaborate system of their own, and these are only complementary.

• (1615)

Mr. Sukh Dhaliwal: The question to answer is do they require only one permit or do they require two permits in two different jurisdictions? It's a simple yes or no type of situation.

Mr. Peter Coyles: Well, obviously there are different jurisdictions, and each province can do as it sees fit. What we will be looking at doing is regulating within our own jurisdiction the things that we can regulate. It's more than just transporting dangerous goods, right? You certainly have the air, the sea, the rail, all clearly under federal jurisdiction. When we deal with overlapping, then we work with our provincial colleagues to make sure the appropriate regime is in place.

Mr. Sukh Dhaliwal: On the other issue, when we look into the trucking industry, travel through Manitoba, B.C., and Alberta, you see a lot of truck drivers are coming under the technical trades category, and they come from other countries. I particularly have a lot of experience with immigration, and we have a previous immigration minister here as well. If they have to go through the security clearance in those countries, it takes years, but it could create an extra burden for those drivers who come to our shores.

Mr. Peter Coyles: Well, if they're trying to transport dangerous goods to the United States, they have to go through that process currently. The difference is that you're looking at repatriating back to Canada the appeals process that should you have an individual who was not granted a clearance under the FAST program and the Americans perhaps did not accept that particular candidate, there would be a process here that's been established by the department. It

goes back to, as Mr. Grégoire talks about, the ports, but it also goes back to the Aeronautics Act in 1985, when you had security clearances that had come into effect.

We have a long history of dealing with security clearances for transport workers. The program would be based on the same. Granted, there could obviously be some difficulties for particular individuals. The notion is that there is an appeal process, and we'd be prepared to work with them to try to find the appropriate solution to make sure that nobody is unduly in difficulty because of the requirement.

The notion under the Aeronautics Act and others is that you're looking at a security problem or a security relationship in this bill to the transportation of dangerous goods. So you're looking at making sure an individual doesn't have something that would cause us concern in that field or scope.

The Chair: Monsieur Gaudet.

[Translation]

Mr. Roger Gaudet (Montcalm, BQ): Thank you, Mr. Chair.

I would like to talk about the highway inspectors in Quebec. We call them "les verts"; people are familiar with them.

What is going to happen with "les verts" in Quebec. Will they come under another authority? Are you going to give "les verts" the power to inspect dangerous goods?

Mr. Peter Coyles: That is already established by the memoranda we have with the provinces. This will not change their duties and their responsibilities a great deal. There should be no problem.

Mr. Roger Gaudet: There should be no problem?

Mr. Peter Coyles: No. This does not affect Quebec jurisdiction. It is a question of developing the regulations. They are passed by Quebec by reference. At that point, the highway inspectors can rely on federal legislation when they conduct a pursuit. They are able to do everything allowed by the legislation.

• (1620)

Mr. Roger Gaudet: I agree with you. Some functions are shared between Quebec and Ottawa. Are you going to compensate people in Quebec and the other provinces? I do not know if it is the same in Ontario, but Quebec has shared jurisdiction. I would like to know if you are going to compensate Quebec.

Mr. Peter Coyles: Quebec already conducts its own activities under its own legislation. This gives it new regulations to use in order to respond appropriately, not only in matters of safety, but in matters of security too.

Mr. Roger Gaudet: I do not know what the situation is in other provinces. Do they all have provincial inspectors?

Mr. Peter Coyles: Yes.

Mr. Roger Gaudet: All provinces have provincial inspectors?

Mr. Peter Coyles: The rules are similar all across the country. We are responsible for federal jurisdiction, that is aviation, railways and shipping. The provinces are responsible for roads.

We can work together and we do. Federal inspectors go and support our provincial colleagues. During blitz days, for example, we patrol the roads with them to make sure that the act and the regulations are observed.

We have been working together for a long time. The process seems to work well. For dangerous goods, each province is very satisfied with its relationship with us. It works very well. We will continue to support our provincial colleagues if they ask us to, and we think that is a good thing to do.

Mr. Roger Gaudet: I agree with you. But we have to remember what happened at the airports and ports where RCMP officers used to work. You replaced them all with members of a private team, whether it was Garda or some other security firm.

Really, we have lost the whole idea of enforcement that the RCMP represented when they were there. We have not heard anything about what is going on in ports and airports for a while.

Mr. Peter Coyles: You have to understand how it works with dangerous goods. The bill provides the ability to designate inspectors. That means we not only have access to federal experts, but also to provincial ones. At federal level, for example, we have designated some inspectors from the Canadian Nuclear Safety Commission to help and support us on nuclear matters. There are explosives inspectors at Natural Resources Canada and we have the ability to designate them. That increases the federal capability to respond to the bill's requirements, and so it goes on. We can do the same with Environment Canada. At federal level, we can designate provincial inspectors so that they are able to do more in their provinces.

We are very flexible, just like the program and the act. We always have to ensure a level of security and safety, because that is so important. If a mistake is made or an emergency occurs, the safety consequences are wide-ranging and it is very difficult for the public.

[English]

The Chair: Ms. Brown.

[Translation]

Hon. John Baird: Can I say a few words? It is important.

[English]

The Chair: Mr. Minister.

[Translation]

Hon. John Baird: We respect provincial jurisdiction. I have said that already, it is important for us. We also respect the fact that we share these files and we have to work together. I hope that we will work well with the provinces and that it will all go well. If Quebec has needs or concerns, we are always ready to listen.

[English]

The Chair: Ms. Brown.

Ms. Lois Brown (Newmarket—Aurora, CPC): Thank you, Mr. Chair, and thank you, Minister, for your remarks.

I did not live in Mississauga at the time of the 1979 incident, but for many who lived in the GTA, incomes were definitely impacted by the security risk that posed and the lack of entrance into the

Mississauga area. So for those of us who had clients down there, it was impossible to do business in the area for quite some time.

I'd like to just follow up on something that Mr. Watson was talking about. He represents the area of Windsor and the largest flow of traffic between Canada and the United States. I was reading some preambles on information to the bill and I was really impressed with the number of jobs that are involved with this whole aspect of security.

My question is not specifically to the bill, but more to the outcomes of it. Will there be any impact of this on infrastructure requirements for Canada, particularly at our borders, our airports, and our ports, and if so, can you tell us what those impacts might look like?

• (1625)

Hon. John Baird: I don't see specific infrastructure demands directly as a result of this bill. Obviously as security needs change—whether it's modal, air, rail, intermodal, water travel—it could change the future, but not as a direct result of this bill.

Ms. Lois Brown: Will there be an increase in the number of jobs? There's going to be training, obviously, for our people who are looking at providing the security. They are going to have to be updated. There will be service jobs, I would expect.

Hon. John Baird: I don't imagine anything quantifiable, because I think what we're wanting is to have the capacity to indemnify a particular company with the relevant experience in this, in case of a specific security incident, so that we have the powers to act—like closing down the Sea to Sky Highway during the Olympics. The same could be the case in the greater Muskoka region of central Ontario during a G-8.

I don't see anything particular. There are no new resources that we think will be required for this. Obviously, for a particular security event, this is just a small sliver of the piece.

Ms. Lois Brown: Okay.

The Chair: We have about a minute and thirty seconds.

Ms. Hoepfner.

Ms. Candice Hoepfner (Portage—Lisgar, CPC): Thank you very much.

I think it's very important that we discuss the implications of this bill on the 2010 Olympics, so I would like you to take whatever time we have left and provide a little more detail on the implications of the bill if it goes ahead, and the implications if it doesn't go ahead. What effect would that have on the Olympics?

Mr. Peter Coyles: There would be some significant impact on the Olympics should the bill not go forward. Obviously, dangerous goods remain a concern in relationship to use by individuals who may wish to cause Canadians harm. The bill is there to look at closing that gap, not just for the Olympics but for today, tomorrow, the Olympics, and after the Olympics. What it provides you with is a prevention and response program, so that should there be an incident, there will be capacity here in Canada to respond, to mitigate the threat, and to basically clean things up.

Firstly, there's the notion of a prevention program to enable us to do things so we don't end up at that particular situation. So it's a critical component, not only as the example that was explained, but to look at all aspects.

Another example of its potential use is if there was a piece of intelligence that came in that perhaps rail was targeted. We would be able to use a security measure to tell a railway company to do certain things using certain equipment, looking for certain, I don't know, explosives or whatever, so that the public safety could be respected and the vital goods and services that are required in this country could continue to move.

Without the bill, there would be complications from that and it would slow down that transportation. Vancouver remains an important gateway, and this bill would help allow it to continue to be a major gateway during the Olympics.

The Chair: Thank you.

It is the hour and I know the minister has other commitments. We want to thank you for attending today.

[*Translation*]

Hon. John Baird: Some representatives of public transit in Montreal are coming to see me. It is very important.

[*English*]

The Chair: Thank you very much.

We'll just take a one-minute recess while the minister makes his exit, and then we'll come back to questions from the witnesses.

• _____ (Pause) _____

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• (1635)

The Chair: Welcome back.

We have a point of order being raised by Mr. Volpe.

Mr. Volpe.

Hon. Joseph Volpe: I hope the committee will receive this positively.

First of all, I want to compliment the officials for coming here and giving us a briefing. I know they're going to be here for a little while longer and they've been very precise in some of the responses they have been giving, but it has been, so far, a departmental briefing.

The point of order I want to make is that we have an opportunity to have the minister come forward and address questions by the critics on this side and by interested government members on the other. This is the second time that we've had him here in the course

of the last week and a half, and it's wonderful to get a minister at the table. When we do get him here, I wonder whether we can encourage the chair to have him address the questions, which are essentially political in nature, in the sense that we want to get to the heart of the motivation behind the legislation. The officials have done a marvellous job in giving us the detail of the legislation. So I'm wondering whether it is your intention, Mr. Chairman, to invite the minister back to address those issues that are going to be of concern to parliamentarians on the floor of the House.

The Chair: Mr. Jean, is it on the same point of order?

Mr. Brian Jean: It is on the same point of order, Mr. Chair.

I was going to recommend that if it is the desire of the opposition to want to get to the heart of the matter, then maybe they shouldn't ask for the DNA strand, because that's what's happening: they're asking for more particulars.

If you're looking for the heart of the general part of the policy and the reasons why, then ask those questions. Those aren't the questions that have been asked by either side. I did think that the minister, quite frankly, answered many of the questions and tried to answer as much as he possibly could.

• (1640)

The Chair: I would like to comment to the committee that it's not a point of order, but it's a good point.

Some hon. members: Oh, oh!

The Chair: Mr. Volpe, you have five minutes with these wonderful departmental people.

No, I'm sorry, it's Mr. Kennedy for five minutes.

Mr. Gerard Kennedy (Parkdale—High Park, Lib.): Thanks, Mr. Chair.

I wonder if you could help me a bit with the root purpose of the legislation. We're told that this is already reflecting practices that the ministry is undertaking. Is that correct? In part, is this codifying what's already underway?

The second part of my question is that I'm hearing from other ministries that there's a lot of duplication and some confusion about the whole matter of security clearances. Who makes them? By what standard are they done? How many times do different agencies that deal with the government have to do them? It's to the point where private organizations—businesses, for example, and infrastructure—aren't interested in doing business with the government any more because it takes too much of their time. They can't qualify people in one place to be able to do business and carry on.

Surely if the heart of this legislation is to codify some of the practices that you have, are you addressing the question of what a security clearance is and how to make sure that it is not going to be an encumbrance? This is a particular issue when we're leading up to performance-sensitive events like 2010 and so on. Is that issue addressed in here, and where? Could you comment more generally on the problem, if you think it exists?

Mr. Marc Grégoire: I'll start with the general perspective.

First of all, this act won't repeat what we're doing now because we're not doing anything about security with the actual legislation. All of the provisions in the legislation in front of you regarding security are new, and we think these are gaps that need to be closed.

On the security clearance and the complaints you have received from private companies, you would have to clarify a bit for me what kinds of complaints you got. Are these companies trying to do business with the Government of Canada, or are these companies trying to do business with ports or airports? We definitely wouldn't want to implement security clearance requirements where they're not required for security reasons. First and foremost, we would base all of that on a solid risk analysis. That's outside of the cross-border issue, which was discussed at length in the first hour.

On the safety side, we are trying to clarify some portions of the act. I'll let Peter or Marie-France clarify those.

Mr. Peter Coyles: Can I add something on security clearances? A lot of inter-agency work has been done under the SPP, the security and prosperity partnership agreement, that was done with the United States several years ago. Inter-agency people have been coming together and looking at what the security clearance is. There has been Natural Resources Canada, for example, and Health Canada and Transport Canada. There has been some work with the United States to understand what their security clearance is and also what the Mexican security clearance is. All that work is the foundation for trying to understand what a security background or security clearance will be in relation to this act. So yes, a lot of work has already been under way, and that work continues.

I think Mr. Grégoire talked about the notion of a new administration and how some of this work will come back into play once the players have been established. There have been several meetings, both with U.S. colleagues coming up to Canada and with Canadians, and our Mexican counterparts, going to the United States, to look at understanding and establishing exactly that notion.

Mr. Gerard Kennedy: As a follow-up, do we have an understanding within our own government of the different levels of security clearance we might be looking at for, say, a truck driver of hazardous waste and somebody who makes fully responsible decisions that could move large quantities of hazardous waste around? Are there levels of that required, and do they correspond to other types of security or safety risks that are happening elsewhere?

Just to elaborate slightly on what Mr. Grégoire said, the reason is that there are people who want to have construction contracts, for example, with one part of government, and they find that the security clearances are completely different from what they are in another type of government, and they find this to be an enormous bureaucratic impediment. Now, there may be good reasons for this, but I'm wondering, within the Government of Canada, because you're introducing a new platform for security clearances, if this question is being addressed. Is it a legitimate concern on the part of outside agents as they encounter government, or is it just a misunderstanding?

You talked about cross-border a little more specifically than about cross-ministries and the different requirements we seem to have for people who deal with government to prove their security-worthiness.

● (1645)

Mr. Marc Grégoire: I can address that.

Yes, there is an interdepartmental working group that is looking at the very heart of your point. They are focusing on the security clearance levels of employees, to start with. We found out through this work that security clearance levels are different between departments and that processes are a bit different between departments. The same levels are looked at differently by different departments for businesses wanting to do business with those departments. We're trying to bring uniformity to all of them, and that's one of the recommendations of this working group. So that's being discussed at this very moment, in the last few weeks and months. It will take some time to implement. That's for employees and for companies doing business with the government.

The idea would be that once you get security-cleared by one organization in the government, you could work anywhere in the government where this level of security is requested. For instance, if a company or a person is requested to have secret clearance, we're now agreeing on what that means so that the level would be recognized wherever you go in the government, either as an employee or as a provider to the government.

Mr. Gerard Kennedy: Is this legislation proposed going to add to or detract from that process? In other words, there are a lot of discretionary powers being conveyed here. Conceivably we could have a whole new regime for transport and for dangerous goods and so on that might not conform with some of the work that's been done, and we get another layer of impediments. In other words, I know that there's a rubric of security. We all want to see that we have measures in place, but I think some of our experience has been that it hasn't happened that smoothly.

Does this legislation do anything to take into account that challenge of not duplicating and of anticipating standards that could come government-wide? Does it propose anything of that kind?

Mr. Marc Grégoire: It's not the legislation itself that says that, because it doesn't, and we looked at section 5.2 before, in the first hour. It's the regulation that would look at this. But our objective in Transport Canada is to have only one kind of security clearance for workers. Whether it be a port worker, a mariner, an airport worker, a trucker, or a train driver, we would use the same clearance.

Basically the background check we do is that once the individual has submitted a form, a request to obtain a clearance, we analyze it, we submit it to the RCMP and to CSIS, and both the RCMP and CSIS do their checks. CSIS will check to see if the person represents a threat to national security, and the RCMP will look to see if the person has a criminal record or if the person is a member of organized crime. And based on that information we determine whether or not the person should be granted a clearance, with only one question in mind: Does that person represent a threat to transportation security—period.

We have not yet introduced the notion of different levels. So for now, everybody we have in the system only has one level, which is different from the way it is for the employees. For instance, for the employees, we have enhanced reliability, secret, and top-secret levels.

The transportation security clearance is quasi-equivalent to the secret level that we have in the public service, but it's the same for everybody.

The Chair: Thank you.

Mr. Mayes.

Mr. Colin Mayes (Okanagan—Shuswap, CPC): Thank you, Mr. Chair.

I'd like to direct my question to Mr. Coyles.

I'm the only member of Parliament here from British Columbia. I'm looking forward to the Olympics in less than a year now. The implementation of the provisions of this bill is very important to the RCMP. I want to know the timelines that you could see if this bill moves through the House, let's say, within a month.

• (1650)

Mr. Peter Coyles: If we move rapidly, then we will be able to do the things we need to do for the Olympics. The largest things we would be looking for would be security, interim orders, and obviously the ability to use emergency response assistance plans, should there be a terrorist incident. All these things come into effect with the new act. They provide the instruments to be able to do the majority of the things we want to do.

Also, on the notion of prevention planning, there are some other aspects of this bill that would enable us to move forward and have an appropriate program in place for the Olympics. So if it were able to move forward relatively quickly, as you're suggesting, within a month, that would be ample time for the department to take its appropriate action.

Mr. Colin Mayes: You did say the enforcement infrastructure was there. Is that correct?

Mr. Peter Coyles: Yes. We have the ability already to draft any requirements, the regulations. We have the ability. We have inspectors in the field. They would need to be designated and trained for security. We have all the components required. We have emergency response assistance plans that are already approved from industry.

The notion here in the act is to provide the authority to pay, should they be asked by the government to respond on behalf of it, during an incident involving dangerous goods that would be of a terrorist nature or a security nature, and we have the ability to have the indemnity protection that industry has requested, should they be asked to do so on our behalf.

It would give us a very strong and solid prevention program as well as a response program, and these are the things that obviously the RCMP is looking for from the department.

Mr. Colin Mayes: Thank you.

I apologize to the member over there from British Columbia. It was an oversight. I'm sorry.

Liability—there's always liability, with regulation and without regulation. How do you see the exposure to the Government of Canada with regard to liability with this act, specifically the implementation and then the enforcement?

Mr. Marc Grégoire: As you said, there's always liability. But generally speaking, the courts have never made the government liable because it issued a regulation.

The liability here is mostly if there is a terrorist event and the government requests that a company activates its ERAP, or emergency response assistance plan. Then the government would have to pay the company and would be liable for any damages incurred by the company in assisting us to deal with a terrorist incident. This is very important, because the capacity of the government as a whole... There is a lot of capacity at different levels, either at the municipal, provincial, or federal level. But there's a lot of capacity to deal with nasty stuff, like chemical incidents, in the private sector.

But today, if it's a safety incident or accident, the companies are forced to fix the thing themselves, to activate the plan themselves, and they incur the liability for this. If there is a terrorist incident and there is a chemical leak somewhere of a very nasty chemical, we have private capacity out there. So the provisions in here will allow the government to direct the company to help us deal with this chemical leak, for instance, but will assume the liability. That is probably the biggest liability I can see in the provisions of the bill now.

Mr. Colin Mayes: Do I have time for one more question?

The Chair: Yes, you have one minute.

Mr. Colin Mayes: With regard to the security clearances, in my notes here it talks about an appeal process similar to that of the Aeronautics Act. Could you explain that a little bit? If I'm a truck driver and all of a sudden I'm red-flagged and I don't get a security clearance and I don't know why, how do I appeal that and what are the time lines?

Mr. Marc Grégoire: I will explain to you the appeal mechanism or the reconsideration mechanism that we have put in place with the marine sector through regulation.

If you are refused security clearance, you can make a case to the reconsideration office, which is different from my organization in safety and security. You can make your case, with or without a lawyer, and explain why your situation should be reconsidered by the government.

We have done this. We have looked at cases. And generally speaking, we have needed more information. So it could be that your security clearance was refused for lack of information or for what appears to be a contradiction in the information you provided. If you're able to bring corrected facts and data, then clearance could be given to you. However, if the department still refuses to give you clearance, then your next appeal is at the Federal Court level.

• (1655)

The Chair: Thank you.

That concludes the round. What I'd like to do, as we have in the past with this committee, is we'll go in the same order. We'll start with about three minutes, and we'll move from the Liberals to the Bloc to the NDP and around the table.

Monsieur Volpe.

Hon. Joseph Volpe: Thank you, Mr. Chairman.

Again, let me express my thanks to the departmental officials.

I've listened very carefully to all of the responses that have been given and I'm assured of one thing: I feel comfortable that all the mechanisms you require to address the movement of hazardous goods are already in place, at least from the point of view of background checks and security clearances of drivers; and secondly, the protocols are in place for addressing issues that will involve an accident.

I say that with a little bit of reservation, though, because a couple of the issues that have been raised have to do with making the legislation more flexible—or rather, I should say, making the government's ability to respond to the demands of the day a little bit more flexible. The regulations, as I heard you explain them, really address just two areas, although you've concentrated on one most of the afternoon. One is on driver background security checks that are focused more on what's going to happen inside these borders, with a potential to get reciprocity on equivalency with the United States. The second is on the documentation of the dangerous goods themselves. I didn't hear anything about the justification for this enhanced enabling legislation that's related to what the minister said initially on it, and that is the economic development and of course the upcoming Olympic Games. I haven't heard that connection.

I tried earlier to talk about what the technology might be that would help us in the movement across borders, whether they be interprovincial borders or national borders. We've avoided that discussion, but I think we'll probably get to that.

Because this is only a three-minute intervention, you'll have to forgive me if I kind of lay the groundwork with this soliloquy, but perhaps we'll do that when we get to a further briefing about which industry representatives you have met, and whether you have met with the trucking associations and the specific organizations that have developed already or are in the course of perfecting the technology that will allow, as I said earlier, for vehicle immobilization and for long-distance intervention that will really track goods and also individuals, because obviously driver verification is involved.

I think we've just talked very briefly about engaging the RCMP and CSIS and obviously their counterparts south of the border, but none of that has come forward, unfortunately. It's unfair to ask the departmental officials about all of this, so maybe we should sit the parliamentary secretary in the spot of the minister so we can address some of these important issues of privacy and security.

I don't mean to trivialize the arguments, because they're very serious and the officials have been very bang-on in terms of the answers they have given, but they haven't addressed these issues. Perhaps in the briefings afterwards we can do that.

I thank you so far. We hope to get into this a little more.

The Chair: Mr. Grégoire, very briefly. As you know, Mr. Volpe has utilized most of the time.

Mr. Marc Grégoire: I can only note and observe that Mr. Volpe would have liked to have far more security provisions in this piece of legislation.

The Chair: Thank you.

Monsieur Laframboise.

[*Translation*]

Mr. Mario Laframboise: Strangely, I am going to continue on the same track because, for the 2010 Olympics, I see a problem with the Conservatives' view of the objective and the result.

Earlier, when I asked about security clearances in transportation, Mr. Grégoire, your answer was that you cannot put everything in place inside Canada. I understand that, there are a lot of truckers, and so on. So this will not be ready for 2010, and it was very good of you to tell us so.

Mr. Coyles told us that, as regards emergency response assistance plans, security for companies was really not a problem. He is already busy drawing up emergency response assistance plans. So safety is being included and they are going to be compensated if there are costs. That is it, more or less.

And for Quebec, for example—and I am talking about roads—there already is an inspection service. So it will not be harder to do all this. So I have difficulty understanding how it can be said that there will be more security when the Olympic Games are held. Security clearances will not be available. If we are thinking that, if there is an attack, it will come from the United States, we have to forget it. No dangerous goods will cross the border from the United States into Canada. So, if something is going to happen, it will have to come from Canada. In my opinion, the only way of going about it is to monitor the truckers, to have security clearance for truckers. But that will never be ready in time for the Olympic Games.

I understood you as long as you were not talking about the 2010 Olympics. I have a problem with the Conservatives' objective of increasing security by 2010. Can you explain that to me?

● (1700)

Mr. Marc Grégoire: There are two essential aspects of the legislation that deal with the Olympics. Let us go back to the security clearances. As I said, that will not be in place for the Olympics, but that does not mean that the RCMP will not require them, or will not search people and vehicles, the trucks and the people going into strategic Olympic venues. The RCMP is responsible for security at the Olympic Games.

For our part, we need two things in order to tackle the Olympics. First, the orders, the security measures; these are the tools that we have in other acts such as the Transportation Act, the Maritime Transportation Security Act or the Aeronautics Act that you have examined in detail. These measures can be put in place if the threat level increases at any given location. For example, if the threat increases in a given airport, we can tighten security by implementing a security measure. Possibly, instead of checking a certain percentage of passengers making their way to a plane, we would check more, two or three times more. We have no regulations for dangerous goods at the moment, no legislation that allows us to put security measures in place if a threat requires it. We have absolutely nothing except sending in the RCMP. This bill would allow us to adopt various security measures as the result of various departmental orders. As I mentioned earlier, we could stop the transportation of dangerous goods on the highway to Whistler, we could stop the transportation of dangerous goods within a certain radius of the Olympic stadium or of other Olympic facilities in Vancouver. There are measures that we can take, and, at that point, all the designated inspectors or the police could stop people from going into those places.

Mr. Mario Laframboise: The province could have done the same thing. British Columbia could have adopted the same measures.

Mr. Marc Grégoire: To my knowledge, no province has its own security measures governing the transportation of dangerous goods. Generally speaking, this is the act that would let people make regulations. Usually, the provinces adopt our regulations by reference.

The other important measure is the one Mr. Coyles discussed at length, the one that allows a private company to intervene in the event of an act of terrorism as long as the government pays the costs and takes the responsibility. We do not have that at all. If there were a terrorist incident in Vancouver today, for example, and we knew that a Vancouver or British Columbia company had the capability to go and deal with the chemical spill, the company would refuse to do it unless it had a guarantee, insurance coverage. This bill would allow the government to provide that, but we cannot do so today.

• (1705)

[English]

The Chair: Thank you.

Mr. Bevington.

Mr. Dennis Bevington: Thanks.

Going back to the relationship between the United States and Canada over security clearances, we have the bill in front of us now. Have United States-Canada negotiations taken place over the process by which the United States will accept our security clearances?

Mr. Marc Grégoire: I did negotiate with the administrator of TSA in the previous year. We now are negotiating security clearances and mutual recognition for port workers and Canadian mariners who board ships.

We have not negotiated here yet because we don't have any program for this. What we have now is the FAST program. But what was negotiated through the SPP was the vision to have a mutually recognizable system, mutually acceptable to the countries.

Mr. Dennis Bevington: So you haven't actually negotiated the terms of what types of information are required under security clearances to satisfy the United States. We also don't know what other provisions the United States may seek in the future for security clearances for Canada.

How do we deal with this relationship? You're saying that this bill is set up to provide a mechanism so that we can provide security clearances for our own people. But we don't yet have a relationship established with the United States in terms of signing off on the details of what type of information will be required and the process of adding or deleting from that information. That's not been done yet?

Mr. Marc Grégoire: It has been done for the marine sector, but not for the surface sector and not for the truckers per se. We have said to our American counterparts that this is clearly our vision. As I said in the first hour, the first group to ask us to put this provision in this bill was the Teamsters. When we were consulting for the marine sector, the Teamsters participated in the consultation, and they asked that we come up with a similar program for the surface sector.

Mr. Dennis Bevington: With the marine agreement, within that agreed-upon information structure, how do you deal with changes or new requirements for information that perhaps the U.S. has for its security clearances that would impact on the relationship between the two?

Mr. Marc Grégoire: We don't yet have an agreement.

Mr. Dennis Bevington: For the marine you said you did, so you must have some basis of working.

Mr. Marc Grégoire: No, I didn't say that. I said we were negotiating with them. We had been in conversation with them over the last year, but there was a change of administrator. Actually the new administrator has not yet been appointed.

This is something that the marine sector stakeholders in Canada are pressuring tremendously to have. At both of our recent consultative committees of marine stakeholders, many labour groups asked us to put more pressure on the U.S. We did. We went to Washington. We presented our program. We explained in detail how we conduct background checks here, and that it would be the same for truckers. We were told that we were going to have to wait for the new administrator before a decision could be made. That's in the top priorities on my agenda for when a new administrator is appointed, presumably in the next month or two.

Mr. Dennis Bevington: We don't have any assurance yet that a system will be put in place that will last for these types of security clearances. This is the hope we have through this legislation.

Mr. Marc Grégoire: No, the hope is that it will work. Also, we think that the security clearance is an important feature for the security framework in Canada in general. It's not all about technology and boxes. We think that the human element is very important in the security framework. As we did for airports and for ports, we think we have to do something for the transportation of dangerous goods and workers as well.

• (1710)

The Chair: Thank you.

Having grown up in a U.S. border town, I certainly know that you're going to have some challenges trying to find that medium ground for access into the U.S. and into Canada. I don't envy you your challenges, having experienced some of the difficulties some people, truckers particularly, have moving across even now.

Mr. Marc Grégoire: We like challenges.

The Chair: Absolutely.

Ms. Hoepfner.

Ms. Candice Hoepfner: Thank you very much, Mr. Chair.

I have a very quick question.

Manitoba is looking at establishing an inland port in Winnipeg, hoping to attract foreign and domestic transporters. I'm wondering what the impact would be. An inland port would probably be more of a holding area. Also, I'm wondering what the impact would be and whether there'd be special regulations for areas that are holding a dangerous good and then being prepared to transport it domestically or outside the country.

Mr. Peter Coyles: There already would be requirements, obviously, under other acts if there is stuff happening at the port. The notion of the Transportation of Dangerous Goods Act is on the import, offering for transport, transport, and handling of dangerous goods, so its impact is minimal.

Ms. Candice Hoepfner: I'm working and looking at establishing foreign trade zones so that we would have foreign exporters coming in and maybe adding value to certain products. Some of them are dangerous goods, and they change. Again, would this impact that, or would it be under other regulations?

Mr. Peter Coyles: I'm sorry, I missed the question.

Ms. Candice Hoepfner: Something I'm personally looking at and hoping to promote is establishing foreign trade zones in Canada, which would mean we would have foreign exporters as well as manufacturers in Canada taking products that could be dangerous, but changing them and adding value to them or changing the components. I'm wondering if this act would affect those people, or that would be under a different act.

Mr. Peter Coyles: If it's a dangerous good and meets the requirements of the act and the regulations, then the answer is yes. If it's in the notion of import, handling, transporting, or offering for transport, then it would. If you took a dangerous good and you upgraded it and it became a new dangerous good that had some value added in a different product and you wanted to sell that and transport it, then yes, you'd fall under the act.

Ms. Candice Hoepfner: Just under the transport act. So the holding portion of it would not be affected by the transport act?

Mr. Peter Coyles: There may be other acts. If you look at CEPA federally, and provincial acts and regulations and requirements, there may be other acts to deal with it. But our act is specifically in the transport, when you're looking at import handling and transporting. And storage is included in the act.

Ms. Candice Hoepfner: Okay. Thank you.

The Chair: Mr. Dhaliwal.

Mr. Sukh Dhaliwal: Thank you very much, Mr. Chair.

I'd like to thank the director general, the assistant deputy minister, and the special adviser for doing wonderful work here.

The minister mentioned earlier that the minister can issue far-reaching interim orders or instructions without going through the usual process of consultations and the development of these regulations. How do the provisions for these interim orders compare to those in the statutes?

Mr. Marc Grégoire: Compared to those in what?

Mr. Sukh Dhaliwal: In the statutes we have already in place.

Mr. Marc Grégoire: Well, as far as I know, interim orders are present in at least ten other pieces of legislation. The one I'm most familiar with is the Aeronautics Act, because that's the one we have in Transport Canada. The minister, under the Aeronautics Act, has the authority to do interim orders, and he has used that authority a few times already since it was brought into the legislation back in May 2004.

Generally speaking, when he's going to do that, it's because he has the authority. He can only do that if he has the authority to regulate and if the intention is to regulate.

Mr. Sukh Dhaliwal: Okay.

On the other issue, when we look at the borders, the border in British Columbia is already very busy. I mean, I'm hearing complaints every day from the truckers and trucking companies. You're saying that once this process goes in, the inspectors are going to be hired. How much additional burden will it put to enforce these requirements? How many new inspectors are needed and will be hired to make sure there are no delays or no undue hardships on those truck owners and the companies?

• (1715)

Mr. Marc Grégoire: There is no resource associated with this piece of legislation. We're not asking for any additional inspectors. We don't believe any burden is added, with the potential exception of security clearances, for which we're not resourced today.

Mr. Sukh Dhaliwal: But in section 15 you say that it allows the inspectors to inspect any place or means of transportation. So that means you will be using only the existing inspectors to do this work?

Mr. Marc Grégoire: Yes, sir.

Mr. Sukh Dhaliwal: Okay.

The other instance is CN Rail. It was warned about its practices for transportation of dangerous goods in 2007, and then it was also charged in 2008. Do you think the tools available for the enforcement of the act are adequate, or how does the department balance the encouragement of compliance and the prosecution of violations to ensure the safety of Canadians?

Mr. Peter Coyles: If you're looking at the authorities we have currently, it's criminal law, so you can have a jail term of two years and significant fines that are associated with that. You also have, obviously, public education.

The whole goal of the program is to look at seeking immediate remediation and compliance with the act. So if there's a problem with a shipment, that shipment can be stopped and it can be made to be conformant with the act. You can do education with the individuals to make sure that happens in the future. You can offer a ticket, which is a fine, or you can bring them to court and look at the severity of the courts, depending upon the situation that's present in front of the inspector.

Mr. Marc Grégoire: We've just started to issue tickets, because this legislation went under the Contraventions Act. It's premature to give you statistics, though, because we just started a few months ago.

The Chair: Thank you.

Mr. Laframboise.

[*Translation*]

Mr. Mario Laframboise: Thank you, Mr. Chair. This will be an easy little question. It is important for me that it be recorded.

You have had contact with the provinces. I know that Transports Québec is satisfied with the bill. Could you just summarize for me how long this operation has taken and what contacts you had with the provinces that led to in this bill?

Mr. Marc Grégoire: The consultation process has been going on for six years, I believe. The public consultation was mostly done in 2004, all across the country. Provinces, including Quebec, are consulted regularly. Quebec is a member of the Transportation of Dangerous Goods General Policy Advisory Council. I do not know if we have figures on the number of meetings and consultations that have taken place.

Mr. Peter Coyles: There were consultations in some Quebec cities. The committee also meets in Ottawa twice a year. Consultations are on-going. For Quebec particularly, I went there to make specific presentations to make sure that everyone understands what we are trying to do and the new initiatives to be introduced or incorporated in a new bill. There have been a number of consultations, direct and indirect, not only with industry in Quebec, but also with the government and with people in several ministries in the Quebec government.

Mr. Mario Laframboise: With respect to transportation companies, I know that Canadian Pacific and CN are in agreement, but did your consultation include road transport representatives as a whole?

Mr. Peter Coyles: Yes, it was open to all. Everyone was represented. Even the general public was invited and there was public interest whenever there were cases of particular concern. We have a ministerial council, bringing together all the consultants, all the industry associations, including transportation, unions, first

responders, and members of the public. These consultations are held twice a year. We have provided presentations directly to industry and to anyone interested in knowing more. A lot of consultation has gone on about how we handle dangerous goods. The program has been in place for a long time, and so has the consultation. It works rather well, in my opinion, especially given that Quebec has told you that it has been very well consulted.

• (1720)

[*English*]

The Chair: Thank you, Mr. Coyles.

Mr. Bevington, do you have any other questions? I'll give you two minutes.

Mr. Dennis Bevington: Thank you very much.

I'm glad to have a chance to go back to some of the concepts I was talking about earlier, because I really think we need to understand how we're going to come to regulation as well.

You talk of a process of consultation and carrying forward, but when we're looking at regulations that have to be approved through a foreign government, what kind of process do you see within Parliament for coming forward with that? If you're going to go to another country and establish what that other country wants us to have for a security clearance, and then you've going to come back here and enter into consultation with groups and agencies to decide that some of these provisions are not part of our law, part of our tradition, part of our idea of privacy rights, how is this going to work out?

Mr. Marc Grégoire: It's going to work out as I explained before. First of all, we will not go to the United States and ask what they want. This is absolutely not the premise of the conversation we will have with our counterparts. We want them to understand what we have and we want them to accept what we have at face value. So this is where we're starting the conversations.

We think we have a very good program in the ports and in the airports. We're proud of the program that we have and we're always seeking to improve it, but we wouldn't want to have a specific, harsher, or more difficult program in one mode than in the other mode because the vision is to have free flow of movement between the modes for the people and for the various vehicles.

For instance, if we were to require a security clearance for a truck carrying dangerous goods, we would want the same paper to be used when the truck is picking up the dangerous goods at the airport and driving to the ports. So we would want the same clearance to be valid throughout the transportation of the goods, and the same clearance to go across.

The Chair: I have to stop you there. We have one more set of questions.

Ms. Brown.

Ms. Lois Brown: Thank you, Mr. Chair.

This is a question more for the record than anything else. Everything we've talked about today is about risk management, and we're putting in place the things we need to do in order to prevent catastrophic incidents happening. But I wonder, for the record, if you could tell us how the emergency response assistance plan works.

Mr. Peter Coyles: The emergency response assistance plan is a requirement in regulations since 1985. Basically it establishes the criteria that if you wish to offer for transport, handle, or import dangerous goods that are the most dangerous of dangerous goods, basically those that have reach, those that can cause problems outside of just the accident itself—and you get into all kinds of different chemicals, biological, radioactive, nuclear, explosives—all of those are required to have an emergency response assistance plan.

A company must take a look at its geographic region in relation to where it's going to transport those dangerous goods. It needs to be able to demonstrate to us that it understands what it has, it has the equipment and the technical expertise available 24 hours a day, and that it can respond within a certain timeframe to be able to help first responders should first responders need some help. They need to have the right equipment, be it non-sparking tools, be it the right suits, be it whatever that might be complementary to responding to their particular product. All these things are tied into regulation, right down to what communication equipment you're using and what techniques you're going to utilize, that you have 24-hour technical assistance on the phone, and that you can activate this plan as per requirement.

We go out and review those plans. We audit those plans to make sure they meet the requirements of the regulations and that we're satisfied they could be used effectively in a response, and then that plan is approved and that plan is available for people to utilize when transporting dangerous goods.

With these particular goods, if you do not have an emergency response assistance plan, you cannot transport dangerous goods of those natures—the chemical, biological, radioactive, nuclear, explosives—unless you have an approved plan.

• (1725)

The Chair: Thank you.

With the short time we have left, I'll thank our guests for being here today. We certainly have some other witnesses coming forward over the next few meetings, so I appreciate your time and your efforts today.

For the committee members, I want to give you a heads-up for Thursday. We have a full agenda. We have the Canadian Chemical Producers' Association, we have the Teamsters, we have the Canadian Trucking Alliance, and we're waiting for confirmation on one other organization.

I just want to advise members that we are pushing forward, so if you're thinking of amendments or other things you might want to do, you might want to start preparing for that.

On Tuesday of next week we have NavCanada coming. Pending how many other people we contact who accept our invitation to appear on Bill C-9, we could see them on Thursday, March 6, or perhaps be looking at clause-by-clause at some point on that day.

Monsieur Laframboise.

[*Translation*]

Mr. Mario Laframboise: I am aware that we have not been provided with the list of witnesses for discussion or anything. I submitted a list of witnesses, some of whom could not be here. But there is a group that I wish could have joined us. Do you intend to discuss the witnesses? I would like to bring the group Equiterre to your attention for an environmental perspective. I have no problem with the bill, but I would like to have heard that group's views on its ecological impact. I would have liked Equiterre to have been invited, that's all.

[*English*]

The Chair: I appreciate the comments.

Through Maxime, the clerk, we've asked everybody to submit names. We're still contacting a few more. Equiterre is definitely on our list to call.

Some are saying they are unable to come, but they'll send us a written document, and others are saying yes or no.

[*Translation*]

Mr. Mario Laframboise: Thank you.

[*English*]

The Chair: Any other comments from committee members?

If not, the meeting is adjourned, and we'll see you on Thursday.

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